

POLK CITY

January 10, 2019

City Commission Workshop
Polk City Government Center
123 Broadway Blvd., SE

7:00 P.M.

CALL TO ORDER – Mayor Joe LaCascia

PLEDGE OF ALLEGIANCE – Mayor Joe LaCascia

ROLL CALL – City Manager Jackson

ESTABLISHMENT OF A QUORUM

AGENDA

1. Protocols and Responsibilities of Staff and Commissioners

CITY MANAGER ITEMS

CITY ATTORNEY ITEMS

COMMISSIONER ITEMS

Vice Mayor Kimsey
Commissioner Blethen
Commissioner Carroll
Commissioner Harper
Mayor LaCascia

ANNOUNCEMENTS

ADJOURNMENT

Please note: Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the City Commission with respect to any matter considered during this meeting, he or she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the American with Disabilities Act, a person with disabilities needing any special accommodations to participate in city meetings should contact the Office of the City Clerk, Polk City Government Center, 123 Broadway, Polk City, Florida 33868 Telephone (863) 984-1375. The City of Polk City may take action on any matter during this meeting, including items that are not set forth within this agenda.

Minutes of the City Commission meetings may be obtained from the City Clerk's office. The minutes are recorded, but are not transcribed verbatim. Persons requiring a verbatim transcript may arrange with the City Clerk to duplicate the recordings, or arrange to have a court reporter present at the meeting. The cost of duplication and/or court reporter will be at the expense of the requesting party.

**City Commission Workshop
January 10, 2019**

**AGENDA ITEM: PROTOCOLS AND RESPONSIBILITIES OF STAFF AND
COMMISSIONERS**

INFORMATION ONLY
 ACTION REQUESTED

ISSUE: Protocols and Responsibilities of Staff and Commissioners

ATTACHMENTS:

- Copy of email from Mayor LaCascia regarding workshop
- Resolution 2013-05, Providing Rules for the Conduct of Meetings; Providing Rules for Public Participation and Conduct; Requiring the Observance of Decorum, etc. (information purposes)
- Polk City Charter (information purposes)

ANALYSIS:

Mayor LaCascia requested a workshop to address concerns of the City Commission protocols and responsibilities of staff and commissioners alike.

For information purposes I have included Resolution 2013-05 and a copy of the City Charter

STAFF RECOMMENDATION:

Patricia Jackson

From: Joe Lacascia
Sent: Tuesday, December 18, 2018 11:01 AM
To: Patricia Jackson
Subject: Workshop request

The best way to address concerns of the City Commission protocols and **responsibilities of staff and commissioners** alike would be in a workshop. Accordingly please attempt a workshop scheduling during week of January 7th.

Thank you.

Joe LaCascia
Mayor

Polk City
123 Broadway Blvd SE
Polk City, FL 33868
Cellular: 863 272-4505
email: Joe.LaCascia@mypolkcity.org

RESOLUTION 2013-05

A RESOLUTION OF THE CITY OF POLK CITY, FLORIDA; ADOPTING RULES AND POLICIES GOVERNING PUBLIC COMMENT; ADOPTING SAID RULES AND POLICIES IN COMPLIANCE WITH SECTION 286.0114, FLORIDA STATUTES; PROVIDING FINDINGS; PROVIDING DEFINITIONS; PROVIDING RULES FOR THE CONDUCT OF MEETINGS; PROVIDING RULES FOR PUBLIC PARTICIPATION AND CONDUCT; REQUIRING THE OBSERVANCE OF DECORUM; PROVIDING FOR WAIVERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF POLK CITY, FLORIDA:

SECTION 1. FINDINGS;DECLARATION OF PUBLIC POLICY. It is the intent of these rules that the deliberations and actions of the Council be conducted and taken openly in order that the citizens may be fully informed, it being the finding of the Council that the citizens must be fully informed if they are to be intelligently advised as to the conduct of public business by the Council. Towards that end, the City Council makes the following findings and declares the following legislative intent:

- (1) The City has traditionally permitted public participation in its public meetings.
- (2) Many Florida local governments allow public participation but have adopted rules to govern its conduct.
- (3) Public participation in government business is the bedrock of American local government and should be protected, permitted, and not discouraged consistent with principles of common and statutory law.
- (4) In 2013, the Florida Legislature adopted Section 286.0114, Florida Statutes, that requires municipal boards and commissions to provide members of the public a reasonable opportunity to be heard before official action is taken.
- (5) At the same time, some forms of comment that slander, defame, libel, disparage, or smear individuals through ad hominem attacks are neither germane to public business and are inappropriate to the decorum of public meetings involving the public business of a city.
- (6) The City is permitted to set reasonable ground rules for public participation within its city council meetings and within any other meetings of any board or commission of the City or its agencies or authorities.

SECTION 2. DEFINITIONS. For the purpose of these rules, the following definitions shall prevail:

(1) A "meeting" is a gathering of a quorum of the membership of the Council, or any board or commission or the City or its agencies or authorities for the purpose of receiving information relating to public business, or for discussion of public business, or for official action upon a proposition related to public business.

(2) A "regular meeting" is a meeting held pursuant to a schedule of such meetings as approved by a board or commission to enact ordinances and resolutions, conduct public hearings, or otherwise discuss or act upon matters of public interest.

(3) A "special meeting" is any meeting other than a regular meeting held by a board or commission. A "special meeting" is held for the purpose of addressing matters requiring the immediate attention of a board or commission or for the purpose of addressing matters which the board or commission has determined are best addressed at a special meeting. When a special meeting is called, the Mayor or presiding officer of the board or commission shall specifically state the purpose of the meeting and the board or commission shall address only those matters for which the meeting was called.

(4) A "board or commission" shall refer to the City Council of the City of Polk City, the Zoning Board of Appeals, the Planning Commission, and any other board or commission created in the future by the City Commission .

(5) "City Councilor" shall refer to the Mayor and members of the City Council of the City of Polk City.

(6) The "presiding officer" shall mean, in the case of the City Council, the Mayor, and in all other cases shall be the chairman of a particular city board or commission.

SECTION 3. MEETINGS.

(1) Location. All meetings of the City Council shall be held in City Hall, unless the Council indicates another location, and shall be open to the public as required by law. All meetings of any other city board or commission shall be held in a suitable location within the city limits of the City of Polk City, and shall be open to the public as required by law. The only exception to the requirement that meetings be open to the public shall be any executive session scheduled for those purposes expressly recognized by law.

(2) Regular Meetings. The City Council and the city's other boards and commissions shall hold regular monthly meetings as designated by the City Council or the city's other boards and Commissions.

(3) **Public Notice.** The City shall give public notice of the schedule of meetings and shall state the dates, times and places for such meetings. Public notice of any special meeting or of any reconvened meeting shall be given before such meeting. Public notice shall be given by posting a copy of the notice at City Hall. The City shall supply copies of the notices of its meetings to any local newspaper of general circulation, or any local radio or television station that has filed an annual request with the City Clerk for such notice.

SECTION 4. CONDUCT OF MEETINGS.

(1) The presiding officer shall preserve order and decorum at all meetings.

(2) When considering matters noticed for a public hearing of the City Council, the applicable ordinances shall first be read by its title only. The presiding officer shall declare the public hearing open and receive comments from the public.

(3) During any board or commission meeting, board members and commissioners shall maintain order and decorum.

(4) City staff and citizens must be recognized by the presiding officer before speaking or asking questions. The purpose of this requirement is so that there is order and so that the recording equipment will properly record all comments made by individuals wishing to comment on a specific subject.

(5) All comments must be made from the podium which is located at the front of the City Council Chambers or by other reasonable accommodations in any other location in which a board or commission meeting is held, and shall address the subject of the agenda item. Individuals that appear before any city board or commission are required to state their legal name and their actual address for the public record. The purpose of this requirement is so that they are properly reflected in any board or commission minutes and are available for future reference.

(6) Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decision making process and is within reasonable proximity in time before the meeting at which the board or commission takes the official action. Members of the public shall be limited to three (3) minutes per person on all items that are not of a quasi-judicial nature.

(7) At the discretion of the presiding officer, public comments to be offered for an item during which the board or commission is acting in a quasi-judicial capacity will be limited to three (3) minutes per person so that all may be heard on the matter and the presiding officer, or his designee, shall in such instances monitor the timing and give the speaker a thirty (30) second notice prior to the expiration of the time allotted. The

presiding officer may, at his discretion, or at the direction of a majority of the board or commission, extend the time allowed for an individual to speak or to allow a speaker a single opportunity to rebut comments made by another speaker. Any such rebuttal shall be limited to three (3) minutes. After receiving public comments as provided herein, the public hearing shall be closed and all further discussion on the matter shall be limited to members of the Council. One participant's allotted time for addressing the board or commission may not be donated to another participant. The public hearing may be reopened only upon the grant of a waiver under Section 7 hereof.

(8) Those persons wanting to express his or her opinion on an agenda item noticed for public hearing without addressing the board or commission may do so on the appropriate color-coded participation card which the clerk shall make available, and when completed and returned to the clerk shall be made part of the public record of the proceedings. Individuals may express on the card that they are "FOR", "AGAINST", or "UNDECIDED" regarding the agenda item they reference on the card.

(9) As a board or commission considers consent agenda items, emergency items, items involving official acts that involve no more than a ministerial act, approval of minutes, ceremonial proclamations and other similar items, the presiding officer may, at his discretion, or at the direction of a majority of the board or commission, accept comments from those in attendance.

(10) When considering the first or second reading of an ordinance, the City Council shall accept comments from those members of the public who have indicated their desire to address the Council concerning such ordinance by signing up at the commencement of the meeting on participation cards provided by the City Clerk.

SECTION 5. PUBLIC PARTICIPATION AND COMMENT. The City of Polk City has a long standing policy which encourages its citizens to contact the City Manager's office to redress issues which involve the City. In cases where a city board or commission's involvement is required, these matters are typically taken before that city board or commission as an agenda item. The City Council continues to believe that this procedure offers citizens the best avenue to resolve issues and encourages this procedure to be followed where practical. In order to comply with Section 286.0114, Florida Statutes, the City Council hereby establishes a Public Comment Policy applicable to all city boards and commissions to allow members of the public an additional opportunity to address city boards and commissions. In addition to public hearings, a special time is hereby set aside at all city board and commission meetings for the purpose of receiving comments and suggestions from members of the public. All comments made during any Public Comment period shall be subject to the following procedures:

(1) The City Council allocates 30 minutes at the beginning of each city board or commission meeting for citizens who wish to appear before that city board or commission to make a request of that board or commission, voice a complaint or concern, express an opinion, or for some other type of recognition. The presiding

officer will divide the time equally between all who have signed up to speak; but in no case may a citizen speak longer than three (3) minutes. A Public Comment period not to exceed thirty minutes will be held during any board or commission meeting. The presiding officer may permit additional time to a given speaker on a case by case basis.

(2) Persons who wish to make a statement during the Public Comment period will register on a sign-up sheet available 30 minutes before the start of the meeting. No one will be allowed to have his or her name placed on the list by telephone request to city staff.

(3) Each person who signed up to speak will have up to three (3) minutes to make his or her statement. Speakers will be acknowledged by the presiding officer in the order in which their names appear on the sign-up sheet. Speakers shall address that city board or commission from the podium, and not approach that city board or commission or staff. Speakers will begin their statement by first stating their legal name and actual address.

(4) Statements are to be directed to the city board or commission as a whole, and not to individuals. Public comment is not intended to require a city board or commission to provide any answer to the speaker. Discussions between speakers and members of the audience will not be allowed.

(5) Speakers will be courteous in their language and presentation.

(6) Only one speaker will be acknowledged at a time. In the event a group of persons supporting or opposing the same position desires to be heard, in the interest of time, a spokesperson shall be designated to express the group's concerns. Likewise, in the event the number of persons wishing to attend the hearing exceeds the capacity of the meeting place, one or more delegates shall be selected to speak on behalf of each group. If the time periods expires before all persons who have signed up get to speak, those names will be carried over to the next Public Comment period, or if the presiding officer consents, these comments can be hearing at that meeting.

(7) Any action on items brought up during the Public Comment period will be at the discretion of that city board or commission. No city board or commission will likely take any action on subject matter for which it has not had the opportunity to fully investigate and gather complete information.

(8) These same rules shall apply to all city boards and commissions.

SECTION 6. DECORUM. The presiding officer shall preserve strict order and decorum at all meetings.

(1) In conducting the public's business, city boards and commissions are committed to the principles of civility, honor, and dignity. Individuals appearing before

city boards and commission are requested to observe the same principles when making comments on items and issues presented to a given city board or commission for its consideration.

(2) Staff members and citizens are required to use proper language when addressing a city board or commission or the audience. Staff members and citizens shall not use profanity or cursing, aggressive or threatening behavior when addressing the city board or commission or other participants. All comments are directed to the presiding officer and not to individual members of the city board or commission or to the audience. No personal verbal attacks toward any individual will be allowed during the conduct of a city board or commission meeting. The presiding officer may have individual(s) removed from the podium and/or meeting chambers if such conduct persists after a warning has been issued.

(3) All members of a city board or commission shall accord the utmost courtesy to each other, the City employees and the public members appearing before the board or commission and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities. During city board or commission meetings, cell phones are to be turned off or silenced. Use of cell phones by board or commission members and City staff for talking, texting, emailing or otherwise will not be allowed during meetings while at the dais, except for emergency communications, research, or during breaks.

(4) In addition to the prohibitions in (3), above, Section 871.01, Florida Statutes, declares that any person who willfully interrupts or disturbs any assembly of people meeting for any lawful purpose shall be guilty of a misdemeanor of the second degree, and may be arrested by police officers present. This may be done in the absence of the conduct being noted, or of the offender being called to order, by the presiding officer.

(5) In the case that any person is declared out of order by the presiding officer and ordered expelled, and does not immediately leave the meeting chambers, the following steps shall be taken:

(i) The presiding officer shall declare a recess.

(ii) The person shall be approached by a police officer and advised that he has been ordered expelled.

(iii) In case the person does not remove himself from the area he may be placed under arrest for violation of Section 871.01, Florida Statutes, should the person continue to willfully interrupt or disturb the meeting.

(iv) In the event any person who is ordered expelled leaves the meeting chambers voluntarily and then returns to the same meeting, he is subject to

arrest for violation of Section 871.01, Florida Statutes, should the person continue to willfully interrupt or disturb the meeting.

The City Manager shall, during all City Council meetings, have a uniformed certified law enforcement officer present.

SECTION 7. WAIVER OF RULES. The city board or commission may, at any time, waive all or a portion of these rules of procedure during the course of a meeting. Provided, however, that any such waiver shall only be done upon a motion and majority approval of the waiver by members of the board or commission present and voting. Such waivers shall only be granted to insure the protection of the right of members of the public to be given a reasonable opportunity to be heard before a city board or commission takes official action on a proposition.


SECTION 8. SEVERABILITY. If any provision or portion of this Resolution is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Resolution shall remain in full force and effect.

SECTION 9. REPEAL OF INCONSISTENT RESOLUTIONS. All resolutions and portions of resolutions in conflict herewith, including but not limited to Resolution No. 98-25, are hereby repealed.

SECTION 10. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage.

RESOLVED, PASSED, AND CERTIFIED AS TO PASSAGE THIS 19th DAY OF August, 2013.

CITY COUNCIL OF THE CITY OF POLK
CITY



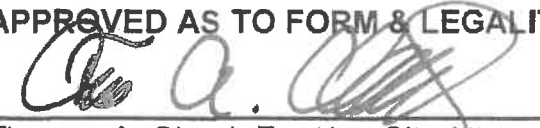
Joe LaCascia, Mayor

ATTEST:



Patricia R. Jackson, City Clerk

APPROVED AS TO FORM & LEGALITY



Thomas A. Cloud, Esquire, City Attorney

PART I
CHARTER*

Article I. Creation; Property

- § C-1. Creation and powers.
- § C-2. City property; use; disposition.
- § C-3. Vacations of property.

Article II. Corporate Limits

- § C-4. Description of City boundaries.

Article III. City Commission

- § C-5. Establishment.
- § C-6. Election and qualification of members.
- § C-7. Mayor-Commission Member; Vice Mayor.
- § C-8. Compensation.
- § C-9. Vacancies.
- § C-10. Restrictions.
- § C-11. Procedures.
- § C-12. Appointments.

Article IV. Legislative Procedures

- § C-13. Ordinances: general.
- § C-14. Ordinances: emergency.
- § C-15. Budget adoption.
- § C-16. Appropriation amendments.
- § C-17. Authentication; recording.

Article V. Administration

- § C-18. City Manager; establishment.
- § C-19. Appointment, removal, compensation, employment contract.
- § C-20. Acting City Manager.
- § C-21. Powers and duties of City Manager.
- § C-22. City Clerk.
- § C-22A. Duties of City Attorney.

***Editor's note**—Printed herein is the Charter of Polk City, Florida, as adopted by Laws of Florida ch. 11016 (1925) and ch. 23489 (1945), and amended in its entirety by referendum on July 22, 1986. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings and additions made for clarity are indicated by brackets.

State law reference—Municipal Home Rule Powers Act, F.S. ch. 166.

POLK CITY CODE

Article VI. Nominations and Elections

- § C-23. Electors.
- § C-24. Candidates; qualification; petition.
- § C-25. Ballots.
- § C-26. Elections.
- § C-27. Notice.
- § C-28. Canvassing board.
- § C-29. Oath of office.
- § C-30. Statutory provisions.

Article VII. Transition

- § C-31. Former provisions.
- § C-32. Ordinances preserved.
- § C-33. Rights of officers and employees.
- § C-34. Pending matters.

Article VIII. Qualified Voters; Powers

- § C-35. Recall.
- § C-36. Initiative.
- § C-37. Referendum.
- § C-38. Procedures.

Article IX. Charter Amendments

- § C-39. Provision.
- § C-40. Initiation by ordinance.
- § C-41. Initiation by petition.

Article X. Intent

- § C-42. Intent.

ARTICLE I. CREATION; PROPERTY**§ C-1. Creation and powers.**

A municipality named Polk City is created, which shall have all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.

(Ord. No. 2014-02, § 2, 2-17-2014, ref. 4-1-2014)

§ C-2. City property; use; disposition.

A. Any real estate owned by Polk City may be leased for a term of up to ten (10) years upon authorization of a majority vote of four (4) of the five (5) council members.

B. Council may extend a duly approved lease by a simple majority vote for terms up to five (5) years with multiple extensions.

C. Any real estate owned by Polk City may be sold after a licensed real estate appraiser has provided a certified appraisal of said property value and the authorization of sale is approved by a majority vote of four (4) of five (5) council members. Use of the property by the new owner must comply with all City, county or state ordinances, codes or statutes and said use of the property must be a material part of the sales contract.

(Ord. No. 1041, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 2, 2-17-2014, ref. 4-1-2014)

§ C-3. Vacations of property.

A. Any alleys, walkways, drainage facilities, dedicated streets or utility easements may be vacated only upon specific authorization by a simple majority vote of commission members of the City Commission after written notification of all property owners within three hundred (300) feet from the perimeter of the real estate sought to be vacated.

B. Any lands conveyed or dedicated to the City to be used for parks, playgrounds, recreation centers, swimming pools or libraries can only be disposed of by a majority vote of four (4) of five (5) votes of City Commission members and is also subject to reversion conditions of the grantor.

C. No easement dedicated or granted to the City or right-of-way shall be vacated.

(Ord. No. 1042, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014)

ARTICLE II. CORPORATE LIMITS**§ C-4. Description of City boundaries.**

A current definition of City boundaries to include detailed measurements and map reference points is available at City hall during regular business hours for a reasonable cost. The boundaries may change from time to time by ordinance, annexation, sale or purchase of property.

(Ord. No. 1043, § 1, 2-17-2005, ref. 4-5-2005)

ARTICLE III. CITY COMMISSION***§ C-5. Establishment.**

There shall be a City Commission with all legislative powers of the City vested therein, unless and except as prescribed elsewhere in this Charter, consisting of five (5) Commissioners.

(Ord. No. 2014-02, §§ 3, 4, 2-17-2014, ref. 4-1-2014)

§ C-6. Election and qualification of members.

A. The regular election of the City Commission shall be held on the first Tuesday of April, starting in the year 2004 and will continue to occur every two (2) years on even numbered years. The dates/days of municipal elections and any future changes shall be designated by ordinances or resolutions adopted by the Commission.

B. There shall be five (5) Commissioners, who shall be qualified electors of the City. No person shall be qualified to run for election as City Commissioner unless he/she has first been a full-time resident of the City six (6) months prior to the election for the commission position to be filled.

C. Election for the office of Commissioner for Seat Nos. 1 and 3 shall be held on the first Tuesday of April in even-numbered years, and election for Seat Nos. 2, 4 and 5 shall likewise be held in even-numbered years two (2) years following the election for Seat Nos. 1 and 3. Election shall be for a four-year term for all Commission seats.

(Ord. No. 1044, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

State law reference—Authority to change local election date for cause, F.S. § 101.75.

§ C-7. Mayor-Commission Member; Vice Mayor.

A. At the first regular meeting in April of each year, the City Commission shall select two (2) of its members to serve as Mayor and Vice Mayor. Commission will elect a replacement Mayor or Vice Mayor if the sitting officer is unable to serve for any reason.

B. The Mayor and Vice Mayor shall be elected by a majority vote of the Commission.

C. The Mayor-Commissioner shall preside at meetings of the Commission, shall be recognized as head of city government for all ceremonial purposes, by the Governor for purposes of military deeds and other documents and as the city official designated to represent the city in all agreements with other governmental entities or certifications to other governmental entities, but shall have no administrative duties except as required to carry out the responsibilities herein. The Mayor-Commissioner shall have equal power with other Commissioners to make a motion, second a motion, discuss a question and cast a vote.

***Editor's note**—Ord. No. 2014-02, § 5, adopted February 17, 2014, renamed article III from town council as city council.

D. A Vice Mayor shall have equal power with other Commissioners. He/she shall perform the functions and duties of the Mayor-Commissioner in the event that the Mayor-Commissioner is unable to do so for any reason.

E. The Mayor and Vice Mayor shall have primary signatory authority on the city checking account. All checks will require two (2) signatures. If the Mayor or Vice Mayor is not available to sign checks, the first alternate will be a designated Commissioner and the second alternate will be the City Manager.

(Ord. No. 1045, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

§ C-8. Compensation.

A. The City Commissioners of the city shall receive the sum of fifty dollars (\$50.00) per month and the Mayor-Commissioner shall receive the sum of one hundred dollars (\$100.00) per month as compensation for their respective services to the city during the time they hold office. The compensation of Commissioners may be increased from time to time by ordinance.

B. All Commissioners shall be authorized to receive reimbursement for expenses incurred in connection with performing official duties for the city, and a fund shall be provided in the annual budget for the purpose; provided, however, that the city in no way shall be obligated for the payment of such expenses unless and until the City Commission shall have expressly approved the same in an open public meeting.

(Ord. No. 1046, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, §§ 4, 5, 2-17-2014, ref. 4-1-2014)

§ C-9. Vacancies.

A. *Vacancies.* The office of a Commissioner shall become vacant upon his/her death, resignation or forfeiture of his/her office.

B. *Forfeiture of office.* A Commissioner shall forfeit his/her office if he/she lacks at any time during his/her term of office any qualifications for the office prescribed by this Charter or by law or violates any standard of conduct or code of ethics established by law for public officials. Such forfeiture shall require the affirmative vote of three (3) members of the Commission.

C. *Filling of vacancies.* If a seat is vacated for any reason, the Commission, by a majority vote of the remaining members shall choose a qualified elector as a successor to serve until a replacement Commissioner is elected at a regular election.

D. *[Replacement Commissioner.]* A replacement Commissioner will be elected for the vacated seat and the ballot will specify that the election be either for the unexpired term or a full four-year term of the respective numbered seat.

E. *Extraordinary vacancies.* In the event that all or a majority of members of the Commission are removed by death, disability or forfeiture of office, the Governor shall appoint an interim Commission that shall call a special election within sixty (60) days to fill any and all unexpired terms of the vacated seats. The election will only be for the unexpired term of each respective seat.

F. *[Special election.]* Should two (2) or more Commissioner seats be vacated at the same time the remaining Commissioner(s) shall call a special election within sixty (60) days to fill the vacant seats for the balance of each respective term and as prescribed by the laws of the State of Florida.

(Ord. No. 1047, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

§ C-10. Restrictions.

A. *Appointments and removals.* Neither the Commission nor any of its members shall in any manner dictate the appointment or removal of any City officers or employees whom the City Manager or any of his/her subordinates are empowered to appoint, but any member of the Commission may express his/her views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

B. *Interference with administration.* Except for the purpose of inquiries and investigation, the Commission or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Commission nor its members shall give orders to any such officer or employee, either publicly or privately. Nothing in the foregoing is to be construed to prohibit individual members of the Commission from closely scrutinizing, by questions and personal observation, all aspects of City government operations so as to obtain independent information to assist the members in the formulation of sound policies to be considered by the Commission. It is the express intent of this Charter, however that recommendations for improvement in City government operations by individual Commissioners are made through the City Manager, so that the Manager may coordinate efforts of all City departments to achieve the greatest possible savings and efficiency.

C. *City officers limited to one (1) office.* No officer of the City shall hold more than one (1) office, whether such office be elective or appointive, except as hereinafter provided in C-20.

D. *City officers and employees shall not have interest in City contracts.* No official or any employee of the City shall have any personal interest in any contract of the City if he/she thereby directly or indirectly gains a profit in money, property or otherwise; and any such contract in which a City official or employee may be or become interested shall be voidable by the City and shall be voided without delay by the City Commission.

E. *Standard of ethics.* The State of Florida statute defining the Code of Ethics for public officers and employees shall be adopted by a Commission approved ordinance and shall apply as provided therein.

(Ord. No. 1048, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

State law reference—Code of Ethics for public officers and employees, F.S. § 112.311 et seq.

§ C-11. Procedures.

A. *Meetings.* The Commission shall meet regularly at least once in every month at such times and places as the Commission may prescribe by rule. Special meetings may be held upon the call of any Commissioner by requesting the City Manager to notify the remaining

Commissioners of the intent. One other Commissioner must join the requesting member to validate the meeting call. The meeting may then be set with a minimum of 24 hours written notice to each member and by posting a notice of such special meeting at City Hall and one (1) other conspicuous place with the City. The Mayor may call an emergency meeting at any time to address public safety, public health or similar issues concerning the welfare of the City.

B. *Rules and recording of official records.* The Commission shall determine its own rules of procedure and the Mayor-Commissioner shall set the order of business for each meeting. The City Clerk shall record and maintain detailed official records of City meetings.

C. *Voting.* Voting on ordinances and resolution shall be by roll call and shall be recorded in the official records. A majority of the Commission shall constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Commission. No action of the Commission, except as otherwise provided in the preceding sentence, shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present.

D. *[Absence from meetings.]* Absence from three (3) consecutive regular City meetings shall constitute a vacancy of the seat of said Commissioner.

(Ord. No. 1049, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

State law reference—Public meetings, F.S. § 286.011.

§ C-12. **Appointments.**

A. The City Commission shall appoint the following offices:

- (1) City Manager.
- (2) City Clerk.
- (3) City Attorney.
- (4) Such other officials as it deems necessary.

B. The duties of these officials shall be as prescribed by the Commission. One (1) person cannot hold or be appointed to more than one office as described in C-10, C. The exception is represented by an emergency temporary appointment to a second office based on death, resignation or termination of another officer, and only until a replacement can be hired or appointed. The exception replacement shall only be made when necessary to maintain critical City government operations until a replacement is hired or appointed.

(Ord. No. 1050, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, §§ 3, 4, 2-17-2014, ref. 4-1-2014)

ARTICLE IV. LEGISLATIVE PROCEDURES

§ C-13. **Ordinances: general.**

A. *[Definitions.]* As used in this Article, the following terms shall have the meanings indicated:

ORDINANCE—An official legislative action of the Commission, which action is regulation of a general and permanent nature and enforceable as a local law.

B. *Form.* Each ordinance or resolution shall be introduced in writing and shall embrace but one (1) subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a section or subsection.

C. *Procedure.* A proposed ordinance shall be read by title or in full on at least two (2) separate days, at either regular or special meetings of the Commission, and within the number of days prescribed by applicable statute prior to adoption, be noticed once in a newspaper of general circulation that meets the statutory standards for public notice publication. The notice of proposed enactment shall state the date, time, and place of the meeting, the title or titles of proposed ordinances and the place or places within the City where such proposed ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

D. *Action requiring an ordinance.* In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, these acts of the City Commission shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any City department or agency.
- (2) Establish a rule or regulation the violation of which carries a penalty.
- (3) Levy taxes authorized by general law.
- (4) Grant, renew or extend a franchise.
- (5) Set service or user charge for municipal services or grant administrative authority for such charges.
- (6) Authorize the borrowing of money not inconsistent with the limitations in the Constitution and general law of the state.
- (7) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VIII with respect to repeal of ordinances reconsidered under the referendum power.
- (8) Resolution of problems or government matters that may be addressed by ordinance rather than referendum unless a referendum is required by law.

(Ord. No. 1051, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, §§ 4, 6, 2-17-2014, ref. 4-1-2014)

State law reference—Procedure for adoption of ordinances, F.S. § 166.041.

§ C-14. Ordinances: emergency.

A. [*Adoption.*] To meet a public emergency affecting life, health, property or the public peace, the Commission may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, set service or user charges for any municipal services or authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter.

B. *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

C. *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced.

D. *Effective date.* Emergency ordinances shall become effective upon adoption or at such other date as may be specified in the ordinance.

E. *Repeal.* Every emergency ordinance, except emergency appropriations, shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

F. *Emergency appropriations.* The Commission may make emergency appropriations in the manner provided in this section. To the extent that there are no available unappropriated revenues to meet such appropriations, the Commission may, by such emergency ordinance, authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

State law reference—Emergency ordinances, F.S. § 166.041(3), (6).

§ C-15. Budget adoption.

The Commission shall, by ordinance, adopt the budget on or before the 30th day of September of each year. If it fails to adopt the budget by this date, the Commission, by resolution, may direct that the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of fifteen (15) days and renewed by resolution each fifteen (15) days with all items in it prorated accordingly until such time as the Commission adopts a budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriation of the amounts specified therein as expenditures from the funds indicated.

(Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

§ C-16. Appropriation amendments.

A. *Supplemental appropriations.* If during the fiscal year revenues in excess of those estimated in the budget are available for appropriation, the Commission, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.

B. *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Commission without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Commission shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may, by ordinance, reduce one (1) or more appropriations.

C. *Limitations; effective date.* No appropriation for debt service may be reduced or transferred and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

§ C-17. Authentication; recording.

A. *Authentication.* The presiding officer of the Commission and the person charged with keeping the official records (Mayor-Commissioner and City Clerk), shall authenticate, by their signatures, all ordinances and resolutions adopted by the Commission. In addition, when the electors have approved Charter amendments, the presiding officer of the Commission and the person charged with keeping the official records shall authenticate by their signatures, the Charter amendment, and such authentication to reflect the approval of the Charter amendment by the electorate.

B. *Recording.* The person charged with keeping the journal shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the Commission. Ordinances shall, at the direction of the Commission, be periodically codified. The person charged with keeping the journal shall also maintain the City Charter in current form and shall enter all Charter amendments and send a copy of the revised Charter incorporating amendments to the Secretary of State's office.

C. *Printing.* The Commission shall, by ordinance, establish procedures for making all resolutions, ordinances, technical codes adopted by reference and this Charter available to the people of the City for public inspection and available for purchase at a reasonable price.

(Ord. No. 1052, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

State law reference—Procedure for adoption of ordinances, F.S. § 166.041.

ARTICLE V. ADMINISTRATION

§ C-18. City Manager; establishment.

There shall be a City Manager, who shall be the chief administrative officer of the City. He shall be responsible to the Commission for the administration of all City affairs placed in his charge by or under this Charter.

(Ord. No. 2014-02, §§ 3, 4, 2-17-2014, ref. 4-1-2014)

§ C-19. Appointment, removal, compensation, employment contract.

A. *Appointment.* The Commission shall appoint a City Manager for a term stated in an employment contract with appropriate extensions as voted by a super majority four (4) of five (5) Commissioners.

B. *Removal.* The Commission may remove the Manager by a super majority vote of four (4) of five (5) Commissioners.

C. *Compensation.* The compensation and benefits package for the Manager shall be fixed by the Commission and shall be defined by contract, approved by a majority of three (3) Commissioners.

D. *Terms of employment contract.* The contract shall define at a minimum, compensation, benefits and a termination process, plus any other special conditions of employment. (Ord. No. 1053, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

§ C-20. Acting City Manager.

A. By letter filed with the Commission, the Manager shall designate, subject to approval of the Commission, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Commission may revoke such designation at any time and appoint an elected official of the City to serve until the Manager shall return or his disability shall cease.

B. In the event that, by reason of death, sickness, resignation, absence or discharge of the City Manager, the office of City Manager shall be temporarily vacant, the City Commission shall appoint an Acting Manager to act pending the filling of the vacancy, and such Acting Manager shall have temporarily the powers hereby vested in a City Manager for a period of thirty (30) days. The initial thirty-day vacancy may be renewable for additional thirty (30) day periods as necessary to fill the vacancy of City Manager. Any member of the City Commission may serve, temporarily, as Acting City Manager while serving as a Commissioner. (Ord. No. 1054, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, §§ 3, 4, 2-17-2014, ref. 4-1-2014)

§ C-21. Powers and duties of City Manager.

A. The City Manager shall:

- (1) Appoint and, when he deems it necessary for the good of the City, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
- (2) Direct and supervise the administration of all other departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

- (3) Attend all Commission meetings and shall have the right to take part in discussion but may not vote.
- (4) See that all laws, provisions of this Charter and acts of the Commission, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- (5) Prepare and submit the annual budget, budget message and capital program to the Commission in a form provided by ordinance.
- (6) Submit to the Commission and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
- (7) Make such other reports as the Commission may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.
- (8) Keep the Commission fully and continuously advised as to the financial condition and future needs of the City and make such recommendations to the Commission concerning the affairs of the City as he deems desirable.
- (9) Sign contracts on behalf of the City pursuant to the provisions of appropriations ordinances.
- (10) Perform such other duties as are specified in this Charter or may be required by the Commission.

B. The City Manager must have Commission approval for any outside employment. (Ord. No. 95-3, 8-1-1995; Ord. No. 1055, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, §§ 3, 4, 2-17-2014, ref. 4-1-2014)

§ C-22. City Clerk.

A. The City Clerk serves at the pleasure of the Commission and will work in a cooperative manner with the City Manager to conduct City business.

B. The City Clerk shall keep and have the care and custody of the financial books, records, papers, legal documents and journals of proceedings of the City Commission and shall carry out such additional duties as may be required by the Commission.

C. The City Clerk must have Commission approval for any outside employment.

D. Applicants for replacing the City Clerk may be screened and initially interviewed by the City Manager, but Commission will conduct final interviews and have the authority for appointment of the position of City Clerk.

(Ord. No. 1056, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

§ C-22A. Duties of City Attorney.

The City Attorney is appointed by City Commission per contract and serves at the pleasure of the Commission. Said attorney will provide legal counsel and guidance to Commission, the

City Manager and other City officials as directed. The City Attorney will attend all regular monthly meetings and other called Commission meetings unless specifically excused by a simple Commission majority.

(Ord. No. 1057, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

ARTICLE VI. NOMINATIONS AND ELECTIONS

§ C-23. Electors.

Any person who is a resident of the City, who has qualified as an elector of this state and who registers in the procedural manner prescribed by general law and ordinance of the City shall be an elector of the City.

(Ord. No. 2014-02, § 3, 2-17-2014, ref. 4-1-2014)

State law reference—Qualifications of electors, F.S. §§ 97.041, 101.002(3), 166.032.

§ C-24. Candidates; qualification; petition.

A. Every person who shall be a candidate for the office of City Commission shall file with the City Clerk an application to have his or her name printed upon the ballot as a candidate for the office to which he or she aspires. The content of the application will include the candidate's residence address and such application shall be filed not less than thirty-five (35) days and not more than fifty (50) days before the date of the election.

B. Every person who shall be a candidate for the office of City Commission shall file with the City Clerk a qualification fee of fifty dollars (\$50.00). In lieu of the qualifying fee, an applicant may file a petition as hereinafter described. Each application by a candidate shall be accompanied by an affidavit that the candidate has all of the requirements of and is a legal voter of Polk City, Florida, and is not a candidate as a nominee or representative of any political party or any committee or convention representing or sitting for any political party. With said application shall be filed a petition for the candidacy of the applicant and the petition for a candidate for the Commissioner shall be signed by not fewer than thirty (30) qualified electors setting forth that the applicant is known to the petitioners and is known by said petitioners to be of good moral character and qualified for the office for which the candidate has applied. No elector shall sign more than three (3) petitions for the candidacy of others to a City office. The City Commission shall prescribe the form of and make available such petition papers through the Clerk's office.

C. When a petition for nomination is presented to the City Clerk for filing, it shall forthwith be examined by the City Clerk to ascertain whether it conforms to the provisions of this section. If not, the City Clerk shall state, in writing, the reasons why such petition cannot be filed and shall forthwith return the petition to the person that presented the nomination petition. The Clerk shall return unsatisfactory petitions within twenty-four (24) hours.

(Ord. No. 1058, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, §§ 2, 4, 2-17-2014, ref. 4-1-2014)

State law reference—Form of candidate oath, F.S. § 99.021.

§ C-25. Ballots.

When possible, all elections shall be on voting machines secured through the County Supervisor of Elections. The format, when using voting machines, shall be prescribed by the Supervisor of Elections. It shall be the responsibility of the Clerk to make the appropriate arrangements to secure voting machines, secure poll workers and make sure that the poll workers are trained for their respective duties. The City Commission shall also have the option to utilize a paper ballot with a format that has been approved by Commission. The Commission may use a paper ballot to save money and/or when the election includes a small number of offices to be filled and/or a small number of candidates seeking said offices. Lottery drawing shall choose the candidate positions on the ballot for each office.

(Ord. No. 1069, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, §§ 3, 4, 2-17-2014, ref. 4-1-2014)

§ C-26. Elections.

A. *Nonpartisan.* There shall be no primary elections. At the general election, the candidate for each seat receiving the highest number of votes for each respective seat shall be elected.

B. *A single candidate running unopposed shall not be placed on the general ballot.* It is presumed that the candidate will vote for him/her self and is therefore elected. F. S. 101.151(7).

C. *Write-in candidate.* Provisions shall be made on the ballot for the electorate to write-in qualified candidates for each seat on the ballot.

D. *Recall.* The qualified voters of the City shall have the power to recall and to remove from office any elected official of the City as provided by general law.

(Ord. No. 1059, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 3, 2-17-2014, ref. 4-1-2014)

State law reference—Recall of municipal officials, F.S. § 100.06.

§ C-27. Notice.

A. *Certification.* The City Clerk, on or before the 30th day before every general election, certify a list of the names of those persons who are entitled to appear as candidates for each office on the ballot.

B. *Publication.* Notice of holding of such an election shall be given by publication in a newspaper that meets the statutory standards for notice publication, a notice of the calling and holding of such election; which notice shall contain a list of the candidates for each respective office, other issues on the ballot, and the time when and the place where such election will be held. Such notice shall be published one (1) time, not less the ten (10) nor more than thirty (30) days prior to the holding of such election.

(Ord. No. 1060, § 1, 2-17-2005, ref. 4-5-2005)

§ C-28. Canvassing board.

The City Commission shall meet as a canvassing board and duly canvass the election returns prior to the regular third Monday of April monthly Commission meeting. The election results will be posted on the bulletin board immediately following the canvassing meeting and

a press release of election results will be given to the local media for publication on the day following the canvassing meeting. Newly elected Commissioners will be sworn in at the regular April Commission meeting, followed by the election of a Mayor and Vice Mayor.

(Ord. No. 1061, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

State law reference—Canvass of returns, F.S. § 101.5614.

§ C-29. Oath of office.

All officers of Polk City, before entering upon the duties of their office, shall by oath or affirmation subscribe to faithfully perform the duties of their office and support the Constitution and laws of the United States of America and the State of Florida.

(Ord. No. 2014-02, § 2, 2-17-2014, ref. 4-1-2014)

State law reference—Public employees' oath, F.S. §§ 876.05—876.10.

§ C-30. Statutory provisions.

The provisions of the general laws of the State of Florida pertaining to state and municipal elections relating to the qualifications of electors, registrations, manner of voting, duties of election officers, canvassing of returns and all other particulars in respect to the management of elections, except as otherwise provided in this Charter and ordinances adopted hereunder pertaining to elections, shall, so far as the same may be applicable, govern all City elections.

State law reference—The Florida Election Code, F.S. chs. 97—106.

ARTICLE VII. TRANSITION

§ C-31. Former provisions.

All elements of former Charters are void upon approval of this or future Charter revisions upon an approval referendum vote by the electors of Polk City.

(Ord. No. 1062, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 2, 2-17-2014, ref. 4-1-2014)

§ C-32. Ordinances preserved.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent with it, shall remain in force until repealed or changed as provided herein.

§ C-33. Rights of officers and employees.

Elected officers shall continue to hold their offices and discharge the duties thereof as provided by this Charter and current, new or amended ordinances of the City, until their successors are elected and sworn in for respective offices.

(Ord. No. 1063, § 1, 2-17-2005, ref. 4-5-2005)

§ C-34. Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the City shall continue except as modified pursuant to the provisions of this Charter.

ARTICLE VIII. QUALIFIED VOTERS; POWERS**§ C-35. Recall.**

The qualified voters of the City shall have the power to remove from office any elected officers of the City in accordance with the recall as provided in the Florida State statutes.

(Ord. No. 2014-02, § 3, 2-17-2014, ref. 4-1-2014)

State law reference—Municipal recall, F.S. § 100.361.

§ C-36. Initiative.

The qualified voters of the City shall have power to propose ordinances to the Commission, provided that such proposed ordinances shall not extend to the budget, capital programs or any ordinance relating to appropriations of money, levy of taxes or salaries of City officials or employees.

(Ord. No. 1064, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, §§ 3, 4, 2-17-2014, ref. 4-1-2014)

§ C-37. Referendum.

The qualified voters of the City shall have power to require reconsideration by the Commission of any adopted ordinance. If the Commission fails to reconsider, reject or amend such ordinance specified by said qualified voters, a referendum may be pursued by qualified voters to take desired action, following procedures outlined in C-38 (Procedures) Qualified may request reconsideration of any ordinance that does not extend to the budget, capital programs or any emergency ordinance or other ordinance relating to appropriations of money, levy of taxes or salaries of City officers or employees.

(Ord. No. 1065, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 3, 2-17-2014, ref. 4-1-2014)

§ C-38. Procedures.

A. *Commencement of proceedings.* Any five (5) qualified electors of Polk City may commence initiative referendum proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address for mailing of all committee notices, setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners committee is filed, the City Clerk may, at the committee's request, issue the appropriate petition blanks to the petitioners committee at the committee's expense.

B. *Petitions.*

- (1) *Number of signatures.* Initiative and referendum petitions must have the name printed and signed by qualified electors of the City, equal in number to at least ten (10) percent of the number of qualified voters qualified to vote at the last general City election.
- (2) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature will be preceded by the

persons printed name and executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

- (3) *Affidavit of circulator.* Each paper of a petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating:
 - (a) That he/she personally circulated the paper.
 - (b) The number of signatures thereon.
 - (c) That all the signatures were affixed-in his/her-presence and that he/she believes them to be the genuine-authenticated-signatures of each person signing the petition.
 - (d) That each voter signing the petition had an opportunity, before signing, to read the full text of the ordinance proposed or sought to be reconsidered.

C. *Procedure for filing.*

- (1) *Certificate of Clerk, amendment.* Within twenty (20) calendar days after the petition is filed [five (5) calendar days for a referendum], the City Clerk shall issue a certificate to the petitioners stating that their petition(s) is either complete and correct or whether said petition(s) fail to meet the criteria in Subsection B, defining either the fault of the inadequate petition(s) or invalid signatures thereon. The certificate shall be sent to the petitioners by registered mail. The petitioners may file a notice to amend the petition(s) within two business days after receiving the certificate. The amended petition(s) or supplementary petition(s) must be filed within ten (10) business days of receiving the certificate. The City Clerk has five (5) business days to review the amended/supplementary petition(s) and respond to the petitioners with a certificate approving or disapproving the amended petition/supplementary petition(s) stating elements of disapproval as/if necessary, and mailing said certificate by registered mail to the petitioners. The Clerk shall promptly present the certificate(s) to the Commission as a final determination of the sufficiency or insufficiency of the petition process.
- (2) *Commission review.* If the original petition(s) is certified insufficient and the petitioners fail to file a notice of intention to amend the petition(s) or if the amended petition(s) are insufficient the petitioners committee has two (2) business days to file a request for Commission to review all petition and certificate documents. The Commission will conduct the review at their next regular meeting, issuing a final approval or disapproval of the petitions filed.
- (3) *Compliance required.* Nothing in this section shall be construed to mean that an initiated ordinance is excused from meeting any requirement imposed by Florida law, the Constitution of the State of Florida or the Constitution of the United States.

D. Action of petitions.

- (1) *Action by the Commission.* When an initiative or referendum petition has been finally determined sufficient, the Commission shall promptly consider the proposed initiative ordinance in the manner provided in Article IV or reconsider the referred ordinance by voting its repeal. If the Commission fails to adopt a proposed initiative ordinance without any change in substance within ninety (90) days or fails to repeal the referred ordinance within ninety (90) days, Commission shall submit the proposed or referred ordinance to the voters of the City for a referendum.
- (2) *Submission to voters.* The vote of the City on a proposed or referred ordinance shall be held not less than thirty (30) days and not more than ninety (90) days from the date that the petition was determined sufficient. If no regular City election is to be held within the period prescribed in this subsection, the Commission shall provide for a special election, otherwise, the vote shall be held as part as part of a regular election. Copies of the proposed or referred ordinance shall be made available at the polls.
- (3) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote on the issue, by filing with the City Clerk a request for withdrawal signed by at least four (4) members of the petitioners committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

E. Results of election.

- (1) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Commission. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. An ordinance created by initiative referendum cannot be repealed except by referendum.
 - (2) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, the ordinance shall be considered repealed upon certification of the election results.
- (Ord. No. 1066, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, §§ 3, 4, 2-17-2014, ref. 4-1-2014)

ARTICLE IX. CHARTER AMENDMENTS***§ C-39. Provision.**

This Charter may be amended in two (2) ways as follows.

***State law reference**—Charter amendments, F.S. § 166.031.

§ C-40. Initiation by ordinance.

The Commission may, by ordinance, propose amendments to any part or all of this Charter, except Article II prescribing the boundaries, and upon passage of the initiating ordinance, shall place the proposed amendment to a vote of the electors at the next general election held within the City or at a special election called for such purpose. Amendment of Article II resulting from annexation done in accordance with general law shall be by ordinance of the Commission and shall not be subject to a vote of the electors except as provided by general law. (Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

§ C-41. Initiation by petition.

A. [*Petition of qualified voters.*] The electors of the City may propose amendments to this Charter by petition signed by at least ten percent (10%) of the total number of qualified voters registered to vote in the last regular City election.

B. *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the proposed Charter amendment.

C. *Affidavit of circulator.* Each paper of a petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating:

- (1) That he/she personally circulated the petition or document.
- (2) The number of signatures thereon.
- (3) That all the signatures were affixed in his/her presence and that he/she believes them to be the genuine authenticated signatures of each person signing the petition.
- (4) That each signer had an opportunity before signing to read the full text of the proposed Charter amendment.

D. *Certification of petition.* Upon certification of the petition by the designated official, such certification to include the validity of the names on the petition as qualified voters registered to vote in the last regular City election, the Commission shall place the proposed amendment to a vote of the electors at the next general election held not less than sixty (60) days after certification or at a special election called for such purpose.

(Ord. No. 1067, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 4, 2-17-2014, ref. 4-1-2014)

ARTICLE X. INTENT**§ C-42. Intent.**

It is intended that this document shall revise and amend the existing Charter of Polk City, Florida in full. This document will be the Charter of Polk City until such time as it is amended or revised. It is recommended that this Charter and all future Charter revisions be reviewed

and amended as necessary and desirable every five (5) years, but not less frequently than every ten (10) years. It is further intended that this Charter conform to the Municipal Home Rule Powers Act, Florida Statutes, Chapter 166 et seq.

(Ord. No. 1068, § 1, 2-17-2005, ref. 4-5-2005; Ord. No. 2014-02, § 2, 2-17-2014, ref. 4-1-2014)